



**Testimony of Joe Sparano, President, Western States Petroleum Association
Before the California Performance Review Commission in Fresno on September 17, 2004**

Good morning. My name is Joe Sparano and I am President of the Western States Petroleum Association, or WSPA. WSPA is a trade group representing 26 companies that explore for, produce, refine, distribute and market petroleum products in California and five other western states.

Today I want to focus on two of many California Performance Review recommendations that we support. I also would like to introduce several more for your consideration. WSPA feels strongly that implementation of these recommendations will help the state address one of our most pressing needs – increasing energy supplies while both our population and the demand for fuels increase.

Petroleum Infrastructure/Permit Streamlining

First, we support the Commission's recommendation to streamline the state's permit process to reduce petroleum infrastructure bottlenecks.

California gasoline demand has grown at 2 to 4 times the rate of in-state production capacity additions. It will be undesirable and unpopular for California to raise gasoline taxes or repeal cleaner-gasoline regulations to address this situation, which will lead us to finding ways to add more in-state gasoline production to meet growing demand.

For many years, state and local policies have discouraged gasoline production. In California, there were more than 30 gasoline-producing refineries in the early 1980's. Now, there are only 13 refineries that produce gasoline. No new refinery has been built in California since 1969, and many have closed. According to a California Attorney General report on the subject, the primary reason for these closures is that smaller refineries couldn't make investments needed to comply with new state fuel regulations.

According to the Energy Commission, the state's overall petroleum infrastructure is undersized and needs upgrading to meet future energy supply requirements. Whether it is refining capacity, pipeline coverage and capacity, port handling and storage equipment, or facilities terminals and related storage, removal of permitting constraints and barriers to infrastructure projects is needed to expand capacity and improve reliability.

Several areas need immediate attention, including unnecessary throughput limits on refinery equipment and ports, duplicative environmental compliance reviews for energy supply facilities, and permit delays when refinery capacity additions or new retail-marketing units are proposed.

We recommend strengthening the existing recommendation in the CPR by adding the creation of a petroleum infrastructure facilitator for energy projects to help provide balance between energy supply needs and environmental issues. This individual would collect best permitting practices from local governments and air quality districts and encourage, if not require, agencies to adopt these practices. And, project proponents could request this individual's intervention when counterproductive regulatory requirements endanger a project.

Bay Area Dredging

We also agree with the CPR's recommendation to streamline activities of the San Francisco Bay Conservation and Development Commission (or BCDC), particularly the permitting functions for maintenance dredging.

WSPA has serious concerns regarding delays in receiving approval of routine maintenance dredging permits for the Bay Area's five refineries. Delays in issuing these dredging permits can reduce the supply of petroleum fuels, which impacts consumers and our economy.

It has taken months working with BCDC Staff to obtain routine dredging permits that should be completed in 30 days or less. This has caused unnecessary delays for tankers and has resulted in higher costs.

California increasingly relies on marine imports of crude oil and petroleum products to help balance available supplies with growing demand. Implementation of your recommendations to streamline the permit review process for maintenance dredging will reduce a negative influence on expanding California's energy supplies.

This brings me to several areas not addressed by the CPR recommendations:

CEC Integrated Energy Policy Report (IEPR)

A year ago the CEC produced their Integrated Energy Policy Report or IEPR. The IEPR proposed a 15% reduction in demand for gasoline and diesel fuel from 2003 actual levels by the year 2020. However, if you use CEC's own forecast of around 2.0% per year growth of gasoline demand through 2020, you will find that the actual reduction requirement is over 40%.

Our companies believe this type of goal contradicts the other stated goals in the IEPR to upgrade and expand in-state infrastructure to ensure sufficient energy supplies. We also believe that the 15% demand reduction goal works against a stated objective of the new Administration - to stimulate California's economic growth by encouraging investments that expand energy supplies.

Energy companies may want to continue investing in economically viable California energy projects. But, the Energy Commission's demand reduction policy will almost certainly discourage additional investments that produce our cleanest burning fuels, resulting in less, not more, supplies to support population and economic growth.

Storm Water Quality

A second area not addressed in the CPR recommendations is storm water quality. Storm water quality has become an increasingly important environmental issue. Regulation and control of storm water has tremendous economic impacts on local governments, businesses and the state's economy.

Our concern is that policies are being developed on an ad-hoc, permit-by-permit and TMDL by TMDL basis. We propose a recommendation that requires the State Water Resources Control Board or its successor to develop a statewide storm water policy. This would ensure development of consistent, rational, cost effective storm water control requirements that lead to needed water quality improvements.

Fuel Neutrality

WSPA would also like to comment on the concept of fuel neutrality. There are many legislative and regulatory initiatives in this state that continue to select – either directly or through the use of incentives or other mechanisms – what the “winning” transportation fuel should be.

WSPA is not opposed to the use of alternative fuels. In fact, our companies are leading the market forward in the production and use of some of those fuels. However, we are opposed to government intrusion into the marketplace, and request some attention be paid to ensuring a fuel neutral approach in all sectors of California government.

In closing, let me stress an important ideal. Our industry is committed to working with you to address the energy challenges facing California. In doing that, we urge this Commission to strike a balance between delivering increasing levels of energy and maintaining environmental quality. We believe that CPR regulatory reforms can and should be implemented without sacrificing environmental standards, or diminishing local control over land use decisions that affect community values.

Over the past 20 years, the petroleum industry has met the challenge of reliably and affordably supplying our customers with all types of products, while contributing to California’s dramatically improved air quality. We make and sell the cleanest products on the planet at the cleanest facilities anywhere.

We can continue to meet California’s energy supply challenge, but constructive dialogue and innovative collaboration with the public sector is needed. Either we win or we lose together. It really is that simple.

WSPA
September 13, 2004



September 13, 2004

Ms. Cathy Poncabare
California Performance Review Commission
Sacramento, CA

Subject: WSPA Comments on the California Performance Review,
Resource Conservation and Environmental Protection

Dear Ms. Poncabare,

On behalf of the Western State Petroleum Association (WSPA), I want to express our appreciation for the opportunity to participate as a Panel 2 speaker at the CPR Commission Hearing scheduled for September 17, 2004. WSPA is a nonprofit trade association representing 26 companies that explore for, produce, refine and market petroleum and petroleum products in California and five other western states.

We commend the CPR team on its efforts to bring recommendations to the Governor that reform the way the state does business. We are generally very supportive of the proposed recommendations, and believe many of them will result in making government more responsive, cost-effective and accountable.

Pursuant to your instructions, attached is my planned oral testimony, written testimony for the record, and our position on the recommendations in the Summary Sheet format you provided. Please note that our comments, especially on those recommendations that we oppose, are more than 1 or 2 sentences, to provide better insight into the reasons for our position.

We strongly support the Commission's recommendation to streamline the state's permit process to reduce petroleum infrastructure bottlenecks. We also agree with the recommendation to streamline activities of the San Francisco Bay Conservation and Development Commission, particularly permitting functions for maintenance dredging.

In addition, we suggest the Commission consider including in the review the issue of managing stormwater discharges. This issue has become increasingly important to

regulators and the regulated community, and has significant economic impacts on local government, business, and the economy of the state.

Specifically, we recommend that the State Water Resources Control Board or its successor develop statewide guidance in several areas. These include how best to manage stormwater issues that achieve the most environmental benefit in a cost-effective manner, in beneficial use determinations, for water quality criteria, in NPDES permits, and for TMDL development and implementation.

In closing, I again would like to express my thanks for having the opportunity to participate in the Commission Hearing. I believe my oral testimony is fairly clear and concise, however, please do not hesitate to call me if you have any questions or need additional information.

The testimony and comments attached to this letter are exclusively related to the subject of this hearing. WSPA reserves the right to submit additional comments on these and other issues related to the CPR recommendations as opportunities arise.

Sincerely,

A handwritten signature in cursive script that reads "Joe Sparano". The signature is written in black ink and is positioned above the printed name and title.

Joe Sparano
President - WSPA



**Written Formal Testimony - For The Record - of
Joe Sparano, President, Western States Petroleum Association**

Before the California Performance Review Commission in Fresno on September 17, 2004

WSPA is a trade group representing 26 companies that explore for, produce, refine, distribute and market petroleum products in California and five other western states. WSPA is submitting the following comments for the Commission's consideration.

Our industry, represented today by WSPA, is committed to participating in continued dialogue on the energy challenges facing California. And, we agree with the California Energy Commission's statement "California must strike a balance between delivering increasing levels of energy and its commitment of environmental quality."

WSPA believes in promoting a balanced future energy base. That is, one that is reliable, cost effective, economically attractive and environmentally responsible. Increasing the supply of existing clean transportation products, while developing new, even cleaner fuels and other energy source to meet growing demand, will support this balanced energy base.

We also embrace continued streamlining of the state's permitting process. This should help remove barriers and disincentives for supplying energy to the marketplace, and for upgrading and expanding the in-state energy infrastructure as it pertains to electricity and cogeneration investments, and to natural gas and liquefied natural gas (LNG) use.

Petroleum Infrastructure/Permit Streamlining

WSPA strongly supports the Commission's recommendation (in RES 14) to streamline the state's permit process, to reduce petroleum and other energy supply infrastructure bottlenecks. Implementation of this recommendation will help the state address one of our most pressing needs – increasing energy supplies in the face of continued increases in our population and rising growth in transportation fuels demand.

In recent years, California has experienced volatile gasoline prices that can cause the state significant economic turmoil. Petroleum market economics are extremely complex, and simplified explanations, answers and responses to unusual market conditions are not easily developed or communicated.

Price spikes can occur when the supply/demand balance is upset and the demand for energy/fuels exceeds the available supply. During shortfall situations, often-higher priced energy supplies (particularly transportation fuels) must be imported to make up for the in-state production shortfall.

The California Energy Commission (CEC) has highlighted that one of the contributing factors to this volatility is our state's very tenuous and deteriorating supply/demand balance. In 2003, the CEC concluded that to help remedy this situation, "the state must act to expand petroleum infrastructure facilities, removing the barriers for industry to obtain needed permits in a timely manner."

However, petroleum and other energy suppliers - and refiners in particular - continue to face difficulties in obtaining timely permits to maintain, expand and modernize their facilities. In-state refining capacity is no longer able to meet continually, the growing demand for California's "cleanest-on-the-planet" gasoline and diesel fuel.

Streamlined permitting more efficiently and with less uncertainty, allows refineries to plan and fund economically attractive infrastructure projects that better allow refiners to keep production at maximum rates. This will in turn better maintain the supply/demand balance so as to reduce the potential for price spikes.

Refineries are major manufacturing operations that are singled out by regulators and by their neighbors for enhanced scrutiny. Consequently, permitting for many refinery project proposals that target improved reliability or expanded production often is mired in the bureaucracy.

For example, in order to phase out MTBE during 2003, ethanol tanks had to be built around the state. One petroleum company found that it took 30 days to get permits in Eureka, 60 days in Sacramento, but 14 months in Contra Costa County, where the tank would be placed inside the refinery. This very lengthy process occurred even though in the refinery, the ethanol tank was an insignificant part of the refinery footprint.

At another refinery, a project that would have improved reliability and efficiency and that would have resulted in no emission increases took 9 months to permit. A similar project at a Texas refinery took 1 month.

A project at a third refinery, designed to meet new state fuel requirements that at the same time improved reliability and flexibility at the refinery, took three years to permit – even though the project reduced air emissions. This project should have been permitted in less than 12 months. However, a lengthy, iterative process undertaken by the local agency dragged out permitting for the project.

WSPA believes that implementation of the Commission's recommendations will improve the ability of refiners and other energy suppliers, in a timely manner, to permit infrastructure projects that upgrade or expand the facilities needed to maintain energy supplies in the face of growing demand. We urge that the recommendations of RES 14 be implemented.

Integrated Energy Policy Report (IEPR)

The CEC's 2003 IEPR contains some recommendations and goals our industry agrees with and others we clearly do not agree with. The Commission's recommendation for Permit Streamlining for infrastructure enhancement in RES 14 is only part of the equation needed to help address California's transportation fuel supply/demand imbalance. WSPA urges the Commission to support a balanced and diversified energy portfolio as part of the solution to reduce upset conditions in the marketplace.

We urge that the Commission encourage and support energy policies that are grounded in the proposition that market forces should govern market conditions and responses. We also believe that these policies should support economically attractive investments that expand supply options and that do not require subsidizing of energy options with more volatile costs and lower technological security of supply.

In the 2003 IEPR, the Energy Commission forecasts that petroleum will be the primary source of California's transportation fuels for the foreseeable future. Further, the Energy Commission projects that over the next 15 to 20 years, gasoline and diesel fuel demand for on-road vehicles will increase at a rate of up to 2.6% per year, or about 40 percent, and demand for jet fuel will more than double.

As a result, California's petroleum industry will have to enhance, expand and upgrade the entire petroleum infrastructure to keep up with demand. This includes production and delivery systems, marine terminals, port storage and distribution facilities, intra and inter-state pipelines, refineries and marketing facilities.

The IEPR identifies the difficulty in acquiring construction permits from multiple local, state and federal authorities as a major barrier to expanding California's petroleum infrastructure. These existing layers of permitting bureaucracy are inefficient and overlapping, and contribute to the continuing shortage of production and storage capacity.

WSPA supports the IEPR recommendation to establish a one-stop permitting process for petroleum infrastructure, including refineries, import and storage facilities, and pipelines. A one-stop process will expedite permits to increase supplies of transportation energy products available to California, while still maintaining environmental quality. This is a key component of California's future energy reliability.

California needs an energy policy that encourages a vigorous, competitive energy market, and that provides a supportive structure for energy supply investment opportunities. However, the CEC in their 2003 IEPR recommended a 15 percent reduction in gasoline and diesel demand from the 2003 actual level, by 2020.

But, if you use CEC's own forecast of around 2.0% per year growth of gasoline demand through 2020, you will find that the actual reduction requirement is over 40%. WSPA believes this represents a disincentive to industry for the future investment opportunities required to keep supply and demand balanced.

Our companies believe the demand reduction goal contradicts another key Commission goal, which is to promote investments that will result in upgraded and expanded in-state infrastructure to ensure sufficient energy supplies. We also think that the 15% demand reduction goal works against a stated goal of the new administration. That is, to stimulate California's economic growth by encouraging investments that stabilize and expand energy supplies.

We further believe a state mandated, sharp reduction in petroleum demand, driven by the application of draconian taxes and fees, and forced replacement of these products with subsidized, non-petroleum renewable products are not in the best interest of California and its citizens.

Energy companies may want to continue investing in economically viable projects that provide Californians the fuels they need. But the Energy Commission's demand reduction policy will almost certainly discourage additional production of clean fuels, resulting in less, not more, supplies to support population and economic growth.

A strategy to reduce significantly long-term demand for petroleum will create disincentives for private investments needed now to expand and upgrade critical import and storage facilities. A stated target of a forced 15% reduction in future petroleum demand sends a signal that there will be no return on future petroleum product investments, and therefore the investments that are needed may never materialize.

WSPA strongly supports allowing the free market to work. Free market policies are in the long-term best interest of the public and all consumers of energy. Forced demand and therefore supply reductions are not.

Fuel Neutrality

There are a multitude of legislative and regulatory initiatives in this state that continue to select – either directly or through the use of incentives or other market mechanisms –what the “winning” transportation fuel should be. The CEC's IEPR contains recommended alternative fuel goals of 20% penetration by 2020 and 30% by 2030.

WSPA is not opposed to the use of alternative fuels. In fact our companies are leading the market forward in the production and use of some of those fuels. However, we are opposed to government intrusion into the marketplace, and would request some attention be paid to ensuring a fuel neutral approach in all sectors of the California government.

We urge the CPR Commission to endorse a streamlined state government that implements an energy policy that allows both expanding existing supplies of the cleanest and most affordable fuels in the world, while at the same time developing and increasing other supplies in the state's energy portfolio. The CEC endorses such a policy for electricity. We believe the Commission should encourage a similar policy for transportation fuels.

Bay Area Dredging

We also agree with the CPR's recommendation to streamline activities of the San Francisco Bay Conservation and Development Commission, particularly the permitting functions for maintenance dredging. The timely granting of environmentally compliant permits for dredging is an important facet of California's efforts to improve access to energy supplies.

WSPA and our members have serious concerns regarding delays in receiving approval of routine maintenance dredging permits for Bay Area refineries. The Bay Area's five refineries supply transportation fuels that keep people and goods moving. Delays in issuing dredging permits can reduce the supply of petroleum fuels, which impacts consumers.

WSPA members' experiences with BCDC Staff on dredging permits have been difficult. It has taken months to obtain routine permits that should be completed in 30 days or less. This has caused unnecessary delays for tankers arriving at the refineries and has resulted in higher operating costs.

Bay Area refineries depend on water access. The petroleum industry increasingly relies on marine imports of crude oil and other petroleum products to help balance available supplies with growing demand. Implementation of your recommendations to streamline the permit review process for maintenance dredging will help minimize the negative influences on expanding California's energy supplies.

State Storm Water Policy

Recent studies by the State Water Resources Control Board, the San Francisco Bay Estuary Institute, Southern California Coastal Water Research Project and others have highlighted that storm water is a major contributor to pollution in California's surface waters. Consequently, the assurance of storm water quality has become increasingly important to regulators and to the regulated community.

How to regulate storm water is a major element in many of the initiatives being undertaken by the state and regional boards to address impaired waters in California. Unfortunately, these regulatory initiatives are being developed without the benefit of state or federal guidance on how to address storm water quality.

As a result, policy is being developed ad-hoc on a permit-by-permit basis, on a TMDL by TMDL basis, and the regulated community has to react to an ever-changing regulatory environment. The regulation and control of storm water has tremendous economic impacts on local government, business, and the economy of the state.

The current local process for regulating storm water cannot continue. A statewide policy is needed that gives both the regulators and the regulated community the needed assurance and confidence that storm water regulations will be consistent and will lead to needed water quality improvements in a rational, cost-effective manner.

Specifically, we recommend that the State Water Resources Control Board or its successor develop statewide guidance in several areas. These include: how best to manage storm water issues that achieve the most environmental benefit in the most cost-effective manner; in beneficial use determinations; for water quality criteria; in NPDES permits; and, for TMDL development and implementation.

Office of Emergency Services and Cal ARP

RES 21 recommends that Accidental Release Prevention programs should be moved from the Office of Emergency Services to the California Environmental Protection Agency, or its successor, including making conforming budgetary changes. WSPA does not agree with this recommendation.

The Cal ARP program is an emergency release program that requires emergency response expertise. WSPA believes that the current system that has developed over the last 20 years is well suited to address emergency accidental hazardous material releases in the most effective manner. OES focus is emergency action and management of the emergency site. OES's mandate is to bring the right response expertise to the scene of the emergency.

OES has developed the expertise to manage and coordinate the specialty hazardous material expertise of emergency responders agencies. By being in charge of the Accidental Release Prevention program, OES is at the forefront of understanding the emergency nature of the hazardous material, and the needed provisions to mitigate and control the release. OES is the appropriate agency to manage this program.

Cal/EPA's focus is to regulate/control/manage emissions or dischargers for the longer-term impacts of pollutants. WSPA recommends that RES 21 be amended to delete the recommendation to move the Cal ARP program from OES to Cal/EPA or its successor. Further, WSPA recommends that as homeland security responsibilities become a more significant part of the emergency response program, it should be incorporated into the OES structure, not into Cal/EPA.

Conclusion

WSPA and its member companies sincerely appreciate having this opportunity to supply the CPR Commission with our input. You have before you a considerable and complicated task, but one with enormous potential for improving the future for all Californians. Please call on us at any time for assistance as you complete the review and implementation process. Thank you for considering our comments and suggestions.

WSPA
September 13, 2004